

U.S. Application Serial No. 10/529,134
Attorney Docket: 47623-0006
Response to Office Action of January 27, 2006

REMARKS

This Amendment and Response is in response to the Office Action dated January 27, 2006 wherein the Examiner:

- (i) rejected claims 1-18 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; and
- (ii) rejected claims 1-18 under 35 U.S.C. § 103(a) as being unpatentable over Kirchen (US Patent No. 5,975,820) ("Kirchen") in view of Mizuno et al. (US Patent No. 6,560,819) ("Mizuno").

Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action and, when coupled with the amendments made herein, are believed to render all claims at issue patentably distinguishable over the cited references.

All the changes are made for clarification and are based on the application and drawings as originally filed. It is respectfully submitted that no new matter is added. Applicants respectfully request reconsideration and allowance of claims 1-18 in light of the above amendments and the following remarks.

Rejections under 35 U.S.C. § 112

The Examiner has rejected claims 1-18 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner has pointed to a number of elements that he regards as being indefinite. The Examiner has rejected claim 1, in part, because "diagonally opposing" appears in the claim. Applicants have clarified the claim above to state that the faces of the long and short spring arms lie in two different horizontal planes. With respect to the Examiner's rejection of claims 4 and 15 regarding the limitation of "to extend from an outer surface", the Applicants have amended these claims

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to read "to extend from a body surface" so as to clarify that the spring arms extend from the body portion of the anchor foot. Furthermore, Applicants have clarified a number of the rejected claims so as to provide antecedent basis for limitations and to clarify a number of ambiguities. Applicants have amended the claims above to remove any indefiniteness and respectfully request that the Examiner withdraw this rejection based on these amendments and these remarks.

Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 1-18 under 35 U.S.C. § 103(a) as being unpatentable over Kirchen in view of Mizuno. Applicants respectfully traverse such rejections for the reasons set forth below.

Applicants respectfully submit that Kirchen is not combinable with Mizuno since Kirchen does not suggest the teachings of Mizuno and Mizuno does not suggest the teachings of Kirchen. See Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985) ("To combine references (A) and (B) properly to reach the conclusion that the subject matter of a patent would have been obvious, case law requires that there must be some teaching, suggestion, or inference in either reference (A) or (B), or both, or knowledge generally available to one of ordinary skill in the relevant art that would lead one skilled in the art to combine the relevant teachings of references (A) and (B). Consideration must be given to teachings in the references that would have led one skilled in the art away from the claimed invention. A claim cannot properly be used as a blueprint for extracting individual teachings from references."). While both references relate to grommets, there is no teaching or suggestion in either reference that would lead one skilled in the art to combine the two references. These references propose two different solutions to the same problem – the problem being that prior art grommets cannot be effectively secured to members of varying thickness (See Kirchen, column 3, lines 5-8, and Mizuno, column 1, lines 35-50). Kirchen proposes the use of "upper fingers" and "lower fingers" to provide "a range of increased thicknesses" of the member (Kirchen, column 3, lines 5-8). Mizuno, in

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contrast, proposes forming its disclosed "latch pawls 5" in specific shapes, including "stepped" form, to address this problem (Mizuno, column 1, lines 35-50 and column 3, lines 40-43). Each of these references proposes a complete, but different, solution to the same problem and, therefore, neither of these references provides a motivation to address this problem with the solution of the other reference. Without a motivation to combine, it is well settled that these references cannot be properly combined to maintain the Examiner's § 103 rejection.

Furthermore, even if combined, the combination of Kirchen and Mizuno fails to anticipate the invention as claimed by Applicants. Applicants have amended their claims to clarify that the step surfaces on the short spring arms and the long spring arms are offset relative to one another such that the step surfaces on the short and long spring arms alternate as the panel thickness increases. There is no discussion, disclosure or suggestion in either Kirchen or Mizuno of this feature of the claimed invention.

Conclusion

In light of the above remarks, it is respectfully submitted that Applicants have responded in a fully satisfactory manner to all matters at issue in this Application, and that this Application is now in condition for allowance. In this regard, Applicants have made every effort to comply with the requirements set forth in the Office Action as well as the statutory requirements. Accordingly, Applicants respectfully request that the Examiner allow the pending claims and pass the Application to issue. If the Examiner believes that personal communication will expedite prosecution of this application, he is invited to telephone the undersigned at (248) 433-7570.

Applicants believe there are no fees due for this document, however, if any fees are due, the Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 04-1061 in the name of Dickinson Wright PLLC.

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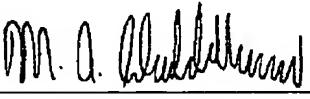
Prompt and favorable consideration of this response is respectfully requested.

Respectfully submitted,

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Date: April 12, 2006

By: _____


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